

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

RICHARD CARLOS GARZA
TX-1323812-G

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COMPLAINT NO. 09-303

AGREED FINAL ORDER

On the 18th day of May 2012, the Texas Appraiser Licensing and Certification Board (the "Board") considered the matter of the *Texas Appraiser Licensing and Certification Board vs. Richard Carlos Garza*, Complaint No. 09-303, concerning the real estate appraisal certification of Mr. Richard Carlos Garza, (the "Respondent"). The Board now makes the following findings of fact and conclusions of law and enters the Agreed Final Order (the "Order").

In order to conclude this matter, the Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in the Order. The Board makes the following findings of fact and conclusions of law and enters the Order in accordance with Texas Occupations Code Section 1103.458:

FINDINGS OF FACT

1. Respondent is a State of Texas certified general real estate appraiser and has been certified by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, Texas Occupations Code Chapter 1103 (the "Act"), the rules of the Board, 22 Texas Administrative Code Sections 153, 155, and 157 (the "Rules"), and the Uniform Standards of Professional Appraisal Practice ("USPAP"), in effect at the time of the appraisal.
3. On or about May 6, 2008, Respondent appraised real property located at 2204 Morning Lane, Mission, Texas 78572 (the "Property").
4. On or about May 23, 2008, Respondent documented the appraisal of the Property in the form of a Uniform Residential Appraisal Report dated May 23, 2008 (the "Appraisal Report").
5. On or about August 3, 2009, a complaint was filed with the Board based on allegations the Respondent produced an appraisal report that did not comply with USPAP (the "Complaint").
6. On or about August 9, 2011, the Board, in accordance with the Administrative Procedure Act (the "APA"), Texas Government Code Annotated Chapter 2001, and the Act, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the Complaint. Respondent's response to the Complaint was received on September 11, 2009.

7. Respondent violated Texas Occupations Code Section 1103.405, 22 Texas Administrative Code Sections 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to the version of USPAP in effect at the time of the Appraisal Report:

- a) Respondent failed to comply with the ethics and record-keeping provisions of the Ethics Rule;
- b) Respondent failed to use an appropriate method or technique to develop an opinion of site value and did not collect, verify, analyze and reconcile the cost new of improvements and comparable sales data;
- c) Respondent failed to employ recognized methods and techniques in his cost approach and sales comparison approach;
- d) Respondent failed to explain and support the exclusion of the income approach;
- e) Respondent failed to analyze all sales of the Property within three years prior to the effective date of the appraisal and did not reconcile the quality and quantity of the data within the approaches used, and the applicability and suitability of the approaches; and,
- f) Respondent's Appraisal Report contains substantial errors of commission or omission as detailed above which resulted in a misleading Appraisal Report for the Property.

8. Respondent omitted material facts and made material misrepresentations in the Appraisal Report of the Property, as detailed above.

9. The parties entered into the Order in accordance with Texas Occupations Code Section 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Act. Tex. Occ. Code §§ 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by Texas Occupations Code Section 1103.405 and 22 Texas Administrative Code Sections 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (ethics and record keeping); USPAP Standards Rules: 1-4(b)(i) and 2-2(b)(viii); 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b); 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a); 2-2(b)(viii); 1-5(b) and 2-2(b)(viii); 1-6(a) and (b) and 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); 2-1(a); and 2-1(b).

3. Respondent violated 22 Texas Administrative Code Section 153.20(a)(9) by making material misrepresentations and omitting material facts.

Based on the above Findings of Fact and Conclusions of Law, the Board **ORDERS** that the Respondent shall:

- a) Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b) Attend and complete a minimum, 15 classroom-hour course in sales comparison approach;
- c) Attend and complete an MLS training course offered by the Respondent's local Board of Realtors; and,
- d) Comply with all future provisions of the Act, the Rules and USPAP, or be subject to further disciplinary action.

ALL CLASSES required by the Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of the Order (the "Order Deadline"). Documentation of attendance and successful completion of the educational requirements of the Order shall be delivered to the Board on or before the Order Deadline. None of the classes or seminars required by the Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of the Order.

Failure to comply with the terms of the Order within the Order Deadline shall result in **IMMEDIATE REVOCATION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has failed to comply with the terms of the Order.

ANY SUCH REVOCATION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such revocation by certified mail, return receipt requested, to the last known address as provided to the Board.

Respondent, by signing the Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of the Order. Information about the Order is subject to public information requests and notice of the Order will be published on the Board's web site.

THE DATE OF THE ORDER shall be the date as executed by the Chairperson of the Board. The Chairperson has been delegated the authority to sign the Order by Board vote.

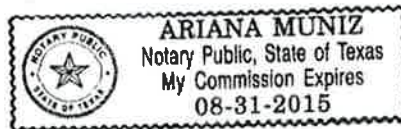
Signed this 9 day of March 2012.

Richard Carlos Garza

RICHARD CARLOS GARZA, RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 9 day of March 2012, by RICHARD CARLOS GARZA, RESPONDENT, to certify which, witness my hand and official seal.

Ariana Muniz
Notary Public Signature



Ariana Muniz
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division on the 2 day of March 2012.

Mark J. Mrnak

Mark J. Mrnak, Director of Standards and Enforcement Services
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner of the Board on the 18 day of May 2012.

Douglas E. Oldmixon
Douglas E. Oldmixon, Commissioner

Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed on the 18 day of May 2012.

Luis De La Garza
Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board